IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.8600 of 2006

India Sponsorship Committee
(Antar Bharati Bal Gram) Petitioner

Vs.

Smt.Sulochana Umakant Khangale & anr. Respondents

Mr.S.M.Paranjape for petitioner.

Mr.P.G.Chavan for resp.no.1.

CORAM: B.H.MARLAPALLE, J.

December 7, 2007.

P.C.

1. Heard Mr.Paranjape, the learned counsel for the petitioner and the petitioner is aggrieved by the Award dated 1/4/2006 passed by the Labour Court at Pune in Reference (IDA) No.139 of 1997 whereby the respondent - workman has been directed to be reinstated with continuity of service but without backwages.

2. The petitioner is Antar Bharati Balgram at Lonavala and it is an orphanage. It has about ten cottages and in each cottage twelve children from the age group of three to six years could be

accommodated. For each cottage there is a Sadan Mata (foster mother) and at the relevant time there were about 84 such children. Antar Bharati Balgram is a Trust established and registered under the Societies Registration Act, 1860 as well as the Bombay Public Trusts Act, 1950. The respondent no.1 was working as Sadan Mata since the year 1985 and as per the petitioner she tendered her resignation on 30/9/1996 which was accepted on 4/10/1996. She applied for the post of Tailoring Instructor on 1/10/1996 and she was appointed to the said post on 8/10/1996. She was on probation for six months which was to expire on 7th April 1997 but her probationary period was extended by her consent upto 30th April 1997 as per the order dated 27th March 1997. At the end of the probationary period the employment of the respondent no.1 was terminated. There was no illegality in the said termination and the respondent could not be continued beyond the probationary period because the vocational training sessions was to expire on 30/4/1997.

3. Before the Labour Court the respondent no.1 had filed statement of claim and stepped in the witness box in defence of her case, whereas on behalf

of the present petitioner two witnesses were examined viz. CW 1 - Vishnu Khandekar, the Executive Officer and CW 2 - Ashok Ghadge, Project Incharge at Balgram, Lonavala. She stated in her evidence before the Labour Court that as a Sadan Mata she was being assigned the responsibilities of Sadan Mata and also in the tailoring section and for both the duties she was being paid monthly remuneration of Rs.950/-. On 21st August 1996 she demanded raise in her salary and the management was annoyed on this account. Shri Ashok Ghadge started visiting her home at odd hours and demanded resignation and obtained resignation from her and forced her to write the date of 30/9/1996. She further stated that from 30/9/1996 to 30/10/1996, she was not allowed to sign the muster. From 8/10/1996 she was appointed in the Tailoring Section and prior to that from 1/10/1996 to 7/10/1996 when she was working in the tailoring section, her signatures were erased by applying white ink and she was paid an amount of Rs.350/- on voucher for the said period. For the remaining period she was paid Rs.1150/-. She had received the order on 27/3/1997 extending her probationary period from 7/3/1997 to 30/4/1997 and suddenly on 8/5/1997 she was given the letter dated 28/4/1997 terminating her services.

This evidence in examination-in-chief remained in-tact even though she was subjected to cross-examination by the petitioner's Advocate.

. The witnesses examined by the petitioner admitted that the respondent possessed the Diploma in Tailoring. In the premises of the Balgram there was a school started upto 7th standard and while the respondent was working as house mother, she was required to take care of maximum twelve orphans. The Government of Maharashtra was providing grant-in-aid at the rate of Rs.500/- per child. The resignation letter dated 30/9/1996 was signed by the respondent in the presence of CW-1. There was a vacancy of Tailoring Instructor and, therefore, she was appointed and subsequently it was found that there was no improvement in the number of students in the classes of tailoring and, therefore, the respondent was discontinued. He also admitted that after the resignation of the respondent was accepted another lady came to be appointed as Sadan Mata. He also admitted that there was employer - employee relationship between the petitioner and the respondent. The petitioner was also undertaking some commercial activities and that the respondent had put

in continuous service from 1985 to 1997. He also admitted in his cross-examination that there was no provision in the appointment order dated 8/10/1996 to extend the probationary period. The second witness CW 2 stated that the respondent no.1 was being paid Rs.600/- per month as salary while working as Sadan Mata and she was provided free lodging, boarding and clothing, medicine etc. whereas as a Tailoring Instructor she was being paid Rs.1500/- per month. He denied that from 1/10/1996 to 8/10/1996 the respondent acted as Sadan Mata as well as Tailoring Instructor.

3A. In this petition, the challenge raised has been restricted only to the legality of the order of termination and the findings on the preliminary issues have not been challenged by the learned counsel for the petitioners.

4. It is pertinent to note that the petitioners did not place before the Labour Court their record like attendance register, salary register etc. In the appointment order dated 8/10/1996 the probationary period was fixed for six months and it was not stated that it was likely to be extended or

it could be extended for any further period. On 30/9/1996 the respondent allegedly resigned and on the very next day she applied for the post of Tailoring Instructor. In the termination order it was indicated that the vocational training sessions period had expired and, therefore, she was discontinued whereas before the Court a plea was taken that the course was discontinued and, therefore, the respondent no.1 was removed from service at the end of the probationary period. In fact the respondent completed her probationary period on 7/4/1997 itself but on 27/3/1997 she was issued an order extending her probationary period by 23 days. On these obtaining circumstances the Labour Court came to the conclusion that the respondent was made to resign from the post of Sadan Mata by luring her by the offer of Tailoring Instructor on a higher salary and ultimately the petitioners were determined to get rid of her. If the post of Tailoring Instructor was not required, it was necessary for the petitioners to continue the respondent as a Sadan Mata, the post she held for about twelve years continuously. Admittedly there were ten Sadans in the Balgram and each Sadan needed a Sadan Mata. The Labour Court was right in coming to the conclusion

that the termination of service of the respondent was not bona fide and she was victimized. These findings cannot be termed as perverse or grossly erroneous so as to call for interference under the supervisory powers of this Court under Article 227 of the Constitution. Even otherwise though the respondent has been reinstated, she has been denied the benefit of backwages. I am, therefore, satisfied that the petition must fail at the threshold.

5. Petition is rejected summarily.

(B.H.MARL